

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff

5 v.

6 OMAR QAZI,

7 Defendant

Case No.: 2:15-cr-00014-APG-VCF

**Order Granting Government's Motion to
Exclude Evidence Regarding Sgt. Bien**

(ECF No. 471)

8 The Government filed a motion in limine (ECF No. 471) to preclude defendant Omar
9 Qazi from introducing at trial findings Judge Boulware made regarding Sergeant Frank Bien in a
10 separate case, *United States v. Frank Chavez*, 2:15-cr-00035-RFB-CWH. Qazo declined to file a
11 written response and instead responded to the motion orally at the July 19, 2018 hearing.

12 In the *Chavez* case, Bien was investigating a crime scene with Detective Hodson.
13 Hodson obtained a telephonic search warrant from state court Judge Lippis based on a mistake of
14 fact regarding the relationship between some of the people involved in the incident. After
15 obtaining the warrant but before executing it, Hodson and Bien learned of the error. Instead of
16 calling Judge Lippis back, Bien and Hodson decided the new information was not material and
17 executed the warrant without informing Judge Lippis of the mistake. Judge Boulware later held
18 that "Hodson and Bien's decision to nevertheless execute the warrant, without calling Judge
19 Lippis back to ask whether this information would change her probable cause determination,
20 converted an innocent misrepresentation into one that was knowingly false." *United States v.*
21 *Frank Chavez*, Case No. 2:15-cr-00035-RFB-CWH, ECF No. 55 at 18-19. Nevertheless, Judge
22 Boulware ruled that "the false statement contained in the warrant application was not essential to
23 the finding of probable cause." *Id.*

1 This information is not admissible in this case. It has no relation to the facts of this case.
2 Nor is it proper impeachment material because, given the facts involved in that case, it is not
3 probative of Bien's character for truthfulness. Fed. R. Evid. 608.

4 Even if it could constitute impeachment material, this information is excludable under
5 Federal Rule of Evidence 403. Introduction of this information would lead to a distracting,
6 confusing, and time-consuming mini-trial about the facts in *Chavez*. I would have to permit the
7 Government to delve into the facts about the *Chavez* case, including Judge Boulware's finding
8 that the mistake did not negate probable cause for the warrant, the fact that the incorrect
9 information was included based on information relayed by other officers, and Bien's role in the
10 warrant preparation relative to Hodson's role. This detour into an unrelated search warrant in an
11 unrelated case would distract and confuse the jury from the evidence and facts in this case. What
12 little, if any, probative value the information has is substantially outweighed by the prejudicial
13 impact, confusion, and waste of time that would occur. Thus, this information is excluded under
14 Federal Rule of Evidence 403.

15 IT IS THEREFORE ORDERED that the Government's motion (**ECF No. 471**) is
16 **GRANTED**. The order and findings regarding Frank Bien in *United States v. Chavez*, Case No.
17 2:15-cr-00035-RFB-CWH are inadmissible in the trial of this case.

18 DATED this 20th day of July, 2018.

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22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE